

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>8:04CR434</b>
	)	
<b>ROBERTO GARCIA,</b>	)	<b>ORDER</b>
	)	
<b>Defendant.</b>	)	

This matter is before the court on defendant's MOTION TO CONTINUE TRIAL (#20). Trial is now set for June 16, 2005. The motion alleges some cause for a continuance of the trial date, but defendant has not filed a waiver of speedy trial as required by NECrimR 12.1(a).<sup>1</sup> Accordingly,

**IT IS ORDERED** that defendant's MOTION TO CONTINUE TRIAL (#20) is held in abeyance pending compliance with NECrimR 12.1. Defendant shall file the required waiver before the close of business on **May 20, 2005**.

**DATED May 13, 2005.**

**BY THE COURT:**

s/ **F.A. Gossett**  
**United States Magistrate Judge**

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<sup>1</sup>The rule provides:

- (a) **Content of Motion.** Unless excused by the court in individual cases, a motion to continue the trial setting of a criminal case must state facts demonstrating that the ends of justice served by a continuance outweigh the best interest of the public and the defendant in a speedy trial, (see 18 U.S.C. § 3161(h)(8)), or that for some other reason, the continuance will not violate the Speedy Trial Act. Unless excused by the court in individual cases, if the defendant is a moving party the motion shall be accompanied by the defendant's affidavit or declaration (see 28 U.S.C. § 1746) stating that defendant:
- (1) Was advised by counsel of the reasons for seeking a continuance;
  - (2) Understands that the time sought by the extension may be excluded from any calculation of time under the Speedy Trial Act, 18 U.S.C. § 3161 et seq.;
  - (3) With this understanding and knowledge, agrees to the filing of the motion; and
  - (4) Waives the right to a speedy trial.